IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 17521 of 2007(J)
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PETITIONER:
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K.K.BALASUBRAMANIAN,
S/O K.T.KUTTYKRISHNAN(LATE), KIZHAKKEMURI,
VANDAZHY, PALAKKAD DISTRICT.

BY ADV. SRI.P.A.NOOR MUHAMMED
SRI.C.K.PRASAD
SRI.ABHILASH S.FRANCIS

RESPONDENTS:
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1. THE ADDITIONAL COMMERCIAL TAX OFFICER,
OTTAPPALAM, PALAKKAD DISTRICT.

2. THE TAHSILDAR,
ALATHUR, PALAKKAD DISTRICT.

3. K.K.SIVANANDAN, S/O K.T.KUTTIKRISHNAN,
C/O JANAKI AMMA, CHELAKKOD HOUSE, PLATHARA,
OTTAPPALAM EAST.

4. K.KRISHNAKUMARI, W/O P.BALAN,
PAPPANCHALLA, GOVINDAPURAM P.O.,
PALAKKAD DISTRICT.

5. K.EASWARY, W/O HARIDAS,
EDAPOTTA, VALLANGHI, PALAKKAD DISTRICT.

6. P.BALAN, S/O PONNAN,
PAPPANCHALLA, GOVINDAPURAM P.O.,
PALAKKAD DISTRICT.

R1&2 BY G.P. SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.17521 of 2007

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Dated this the 15th day of June, 2007.

JUDGMENT

The petitioner is challenging recovery proceedings initiated for recovery of arrears of sales tax due from his father for 1995-1996 and 1996-97. Petitioner's father was doing bamboo business and he died at the age of 90. Even though petitioner's father prior to his death filed O.P. challenging recovery proceedings and in that O.P. this court granted opportunity to him to file appeals against assessments, he could not do it. According to the petitioner, he was not in a fit condition to pursue the matter. Having regard to the findings, I feel one more opportunity can be granted to the petitioner to contest the assessments in appeal,but on terms. Petitioner will deposit rupees twenty five thousand towards arrears of tax for both the years at the rate of Rs.12,500/- for each of the above two years and will file appeals against assessments along with receipts before the statutory authority, within one month from now. If appeals are filed along with receipts of payment of Rs.25,000/-, there will be direction to the appellate authority to treat the appeals as filed in time, call for the records, hear the petitioner and dispose of the appeals within three months thereafter. Recovery

proceedings against the petitioner will be kept in abeyance for one month and if Rs.25,000/- is paid, recovery will remain stayed till disposal of appeals and thereafter recovery will be based on orders in appeals. I make it clear that if tax has to be ultimately recovered from the property of the deceased defaulter in terms of Section 20 of the KGST Act, recovery should be made on an equitable basis from the assets of all the legal heirs on whom property is devolved on a proportionate basis.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms